

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 12th DAY OF JULY 2010

BEFORE

THE HON'BLE MR.JUSTICE MOHAN SHANTANAGOUDAR

WRIT PETITION NO. 10974/2010(EM-Res)

BETWEEN :

Smt.Reshma Tahaseen
W/o.Syed Maqsood Hussain,
Aged 36 years, Tahsildar,
Shidlaghatta Taluk,
Chikkaballapur District.

...PETITIONER

(By Sri. Kashinath, Adv., for
Sri C.Jagadisa, Adv.)

AND :

1. The Karnataka Information
Commission,
Represented by Under Secretary,
2nd Floor, M.S.Building,
Dr.Ambedkar Street,
Bangalore - 560 001.
2. The Commissioner,
Karnataka Information
Commissioner,
M.S.Building,
Bangalore - 560 001.
3. Sri.S.N.Narayanarao,
Sonaganahalli village,
Saadali Post,

Shidlaghatta Taluk,
Chickballapur District.

...RESPONDENTS

(By Sri.M.Nagesh &
Sri.K.Subramanyam, Advs. for R3,
Sri.Narendra Prasad, HCGP for R1 & R2)

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This writ petition is filed under Articles 226 and 227 of the Constitution of India with a prayer to quash the order dated 16.02.2010 passed by the R2 vide Annexure 'L'.

This writ petition coming on for *preliminary hearing*, this day, the Court made the following:

ORDER

The order Annexure 'L' dated 16.02.2010 passed by the State Information Commissioner, by which the petitioner is imposed a cost of Rs.25,000/- is called in question in this writ petition. By the very order, the State Information Commissioner has directed to hold Departmental Enquiry and initiate Disciplinary action against the petitioner under Section 20(2) of the Act for not providing information under CCA Rules applicable to her.

2. The impugned order is self-explanatory inasmuch as it assigns the detailed and valid reasons as

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to why the punishment is imposed and disciplinary enquiry is sought to be conducted.

The records reveal that the 3rd respondent filed an application on 04.02.2009 before the petitioner, who was then working as Tahsildar in Shidlaghatta Taluk, seeking certain information under Right to Information Act. However, the said information was not furnished by the petitioner, who was the then Public Information Officer and Tahsildar. Consequently, proceedings were initiated before the State Information Commissioner against the petitioner. Though it is the case of the petitioner that she had furnished the information as required to respondent No.3 on 19.05.2009, in fact full information was not supplied by her to respondent No.3. Thus, the proceedings were initiated against the petitioner before the State Information Commissioner by issuing notice to her. The complaint was heard on 01.12.2009 and the Commissioner directed the petitioner to provide information within 15 days, free of cost by Registered Post with Acknowledgement Due.

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The Commissioner also issued show cause notice to her under Section 20(1) of the Right to Information Act for not providing information. The Commissioner further issued a show cause notice to the petitioner seeking explanation as to why compensation of Rs.1,000/- should not be awarded under Section 19(8) (b) of the Act to the complainant for the loss and other hardships suffered by him. In spite of serving notice, the petitioner did not choose to be present before the Commissioner on the date of hearing nor had she provided the information. However, during the course of hearing, respondent No.3 appeared before the Commissioner and submitted that he has not received any information as sought for by him.

Thus, the records make it amply clear that the request for information was received by the petitioner on 04.02.2009. However, no information was provided by her till 16.02.2010 i.e., for nearly 11 months. During the course of these eleven months, the Commissioner had directed the petitioner to provide information by its



orders dated 08.07.2009 and 01.12.2009. She was also issued with a show cause notice seeking explanation as to why penalty should not be levied upon her under Section 20(1) of the Act. In spite of giving an opportunity by the Commissioner to the petitioner on 08.07.2009 and 07.12.2009, the petitioner did not choose to offer her explanation. Consequently, the Commissioner has rightly treated that the petitioner has no explanation to offer. Since there is delay of more than 11 months, in furnishing the information, the State Information Commissioner chose to impose maximum penalty and consequently, Commissioner imposed penalty of Rs.25,000/- to the petitioner under Section 20(1) of Right to Information Act. By the very order, the Commissioner directed the Deputy Commissioner to initiate Disciplinary action against the petitioner under Section 20(2) of the Act for not providing the information.

3. During the course of arguments, learned Advocate for the petitioner pleaded for lenience.

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According to him, the petitioner could not furnish the requisite information and could not appear before the Commissioner as she was busy in her other official work and was held up in election duty etc. It is further submitted on behalf of the petitioner that the negligence on the part of the petitioner is not deliberate or intentional.

The learned counsel appearing for the petitioner has filed an affidavit of the petitioner before the Court today. In the said affidavit, the petitioner has tried to explain the lapses on the part of the petitioner. However, she pleads lenience. She has also tendered unconditional apology for the lapses committed by her and also undertakes that she will not commit any mistake in future. She has further sworn to the fact that she will diligently act and co-operate with the 2nd respondent, in case if she receives notice from the 2nd respondent in future.

4. The affidavit filed by the petitioner dated 12.07.2010 is recorded. Having regard to the totality of

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the facts and circumstances and in view of the unconditional apology tendered by the petitioner, interest of justice will be met if the portion of the impugned order relating to directing the Deputy Commissioner to initiate disciplinary action against the petitioner is set-aside. Accordingly, following order is passed:

The impugned order relating to imposition of penalty of Rs.25,000/- on the petitioner is confirmed. However, the direction issued by the 2nd respondent – Commission to the Deputy Commissioner, Chickballapur District to initiate disciplinary action against the petitioner under Section 20(2) of the Act for not providing information, is quashed.

Writ petition is **disposed of** accordingly.

Sd/-
JUDGE

SPS